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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,084	10/02/2003	Wai Lin Siew	061255-0027	7774
9629	7590	11/09/2006	EXAMINER	
MORGAN LEWIS & BOCKIUS LLP 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004			PADEN, CAROLYN A	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 11/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/676,084

Applicant(s)

SIEW ET AL.

Examiner

Carolyn A. Paden

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-14 and 17-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-14 and 17-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6-14 and 17-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin as further evidenced by Baileys and in view of Taylor.

Lin discloses combining palm oil with unsaturated oils such as soybean oil, corn and sunflower oils in proportions of 9:1 to 7:3. The blended oils are then cooled to 20C to 3C for crystallization and then separated by filtration. Although the fatty acid content of the unsaturated oil is not mentioned in Lin, these levels are well known in the art as evidenced by Bailey's to contain the linoleic, oleic and linolenic that is set forth in claim 1. Further applicant includes these oil sources as selected oils in claim 8. The claims appear to differ from Lin in the recitation of the use of heating in the crystallization process. At page 74, Taylor teaches

that the slip melting point of palm oil is 63C. So it would have been obvious to heat palm oil to a of at least 63C prior to cooling in order to melt all of the crystals typically found in the oil. Thus with the reference before him, it would have been obvious to heat the oil of Lin to a temperature of at least 63C in order to form a uniform liquid blend oils for fractionation upon cooling. The filtration step of Lin is taken to be a low-pressure filter press in claim 2. The ratio of saturation and unsaturation in the fatty acids would have been an obvious function of the amount of each of the oils used in the starting blend. The crystallization would have been an obvious function of the cooling rate used in the process. Finally the used of the oils in foods would have been an obvious matter of choice with regard to the particular edible oil that was available.

It is appreciated that the exact ratio of saturated fatty acids to monounsaturated fatty acids to polyunsaturated fatty acids is not mentioned, it would have been obvious to calculate this value from the fatty acid content of the palm oil/vegetable oil blend. Even though the blend ratio in Lin does not provide these ratios in the unfractionated oil blend, one of ordinary skill in the art might expect the fractionated oil to provide a ratio of fatty acids that is closer to that shown in claim 1. Assuming *arguendo*

that this is technically incorrect, it is not seen that the ratio of fatty acids in the final blend constitutes an unobvious step in the method claims. With regard to the product claims, it would have been obvious to adjust the ratio of the blends of fats of Lin in order to provide for an oil blend that is optimal for advancing heart health, as recommended by the American Heart Association. The fact that the Lin blend is different from the claims is not alone seen to constitute unobviousness. A blend of palm oil and sunflower oil or corn oil (7:3) appears to have a ratio of saturated to mono-unsaturated to polyunsaturated of (1:2:1), as estimated from the fatty acid content of these oils. One of ordinary skill in the art would be expected to optimize the fatty acid ratios according to the particular health benefits desired.

Applicant argues that palm olefins have a ratio of fatty acids that is different from the claims. This argument has been considered but is not persuasive because palm olefin is not a blend of palm oil with unsaturated oils, as required in the claims and as disclosed by Lin on page 82.

No claim is allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE**

FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn A Paden whose telephone number is (571) 272-1403. The examiner can normally be reached on Monday to Friday from 7 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached on (571) 272-1398 or

by dialing 571-272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CAROLYN PADEN
PRIMARY EXAMINER

11-8-06
1761